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Patent

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Thompson et al.

3737

Examiner: Unknown

Serial No. : 09/883,089

Group Art Unit: Unknown

Filed : 15 June 2001

For : Systems for Applying Ultrasound Energy to the Thoracic Cavity

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RESPONSE TO NOTICE OF INCOMPLETE REPLY  
MAILED 19 OCTOBER 2001

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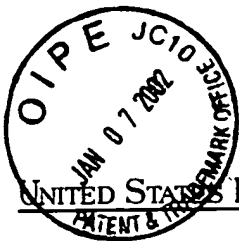
Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Sir:

This application was filed on 15 June 2001 without payment of the filing fee or submission of a Declaration/Oath. The Patent Office issued a Notice to File Missing Parts in the matter on 6 July 2001. Part of that Notice indicated that the application was informal because one of the drawing figures was missing. No extension of time was available to respond to the informality requirement; however the filing fee and Declaration/Oath fell under the provisions of 37 CFR 1.136(a).

On 6 September 2001 applicant responded to the informality requirement with a Petition, copy enclosed. This was a partial response, as is indicated in the heading of that document, and included the filing fee, surcharge and Petition fee.

On 18 October 2001 applicants submitted the missing Declaration/Oath with a two month extension of time request, in compliance with the remaining requirements of the Notice to File Missing Parts.



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Page 1 of 1

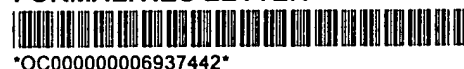
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/883,089	06/15/2001	Todd A. Thompson	9345.17121-CON 1

CONFIRMATION NO. 1589

FORMALITIES LETTER



RYAN KROMHOLZ & MANION, S.C.  
Post Office Box 26618  
Milwaukee, WI 53226-0618

Date Mailed: 10/19/2001

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

*Filing Date Granted*

The U.S. Patent and Trademark Office has received your reply on 09/10/2001 to the Notice to File Missing Parts (Notice) mailed 07/06/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.


The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The required items noted below SHOULD be filed along with any items required above. The filing date of this nonprovisional application will be the date of receipt of the items required above.

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*

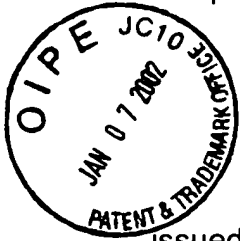
*A copy of this notice **MUST** be returned with the reply.*

  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE


Serial No. 09/883,089  
Response to Notice of Incomplete Reply

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It is therefore believed that the "Notice of Incomplete Reply" (copy enclosed) issued by the PTO on 19 October 2001 has been satisfied and that the documents crossed in the mail system.

Respectfully submitted,

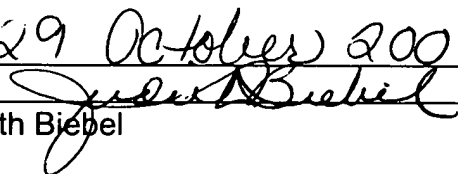
By   
Daniel D. Ryan, Reg. No. 29,243

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RYAN KROMHOLZ & MANION, S.C.  
PO BOX 26618  
MILWAUKEE, WISCONSIN 53226

#### CERTIFICATE OF MAILING

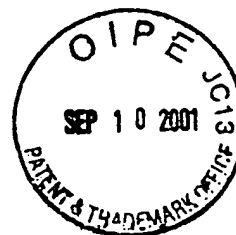
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on 29 October 2001.

Dated 29 October 2001  
By   
Judith Biebel

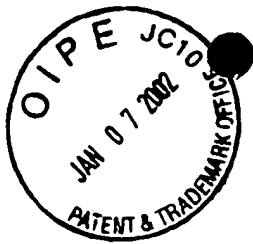
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Petition Accompanying Partial Response to Notice to File  
Missing Part: f Nonprovisional Application sitted in  
application of Thompson et al., Serial No. 09/883,089 filed  
15 June 2001 for Systems for Applying Ultrasound Energy  
to the Thoracic Cavity, consisting of: 2 page typewritten  
response; copy of Notice to File Missing Parts; copy of  
PTO acknowledgment post card; copy of FIG. 8; complete  
additional set of drawing Figures (9 sheets), and Check No,  
8503 \$550.00

TIMI 3 9345.17121-CON 1



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : Thompson et al.

Examiner: Unknown

Serial No. : 09/883,089

Group Art Unit: Unknown

Filed : 15 June 2001

For : SYSTEMS FOR APPLYING ULTRASOUND ENERGY TO THE THORACIC CAVITY

PETITION ACCOMPANYING PARTIAL RESPONSE TO NOTICE TO  
FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

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Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Dear Sir:

This Petition accompanies applicants partial response to the Notice to File Missing Parts of Nonprovisional Application, mailed from the Patent and Trademark Office on 25 April 2001. The Notice to File Missing Parts states that (1) the oath or declaration is missing, and (2) the application is considered informal because Figure 8 of the drawings is missing.

Applicants petition that Figure 8 of the drawings accompanied the application when it was filed on 15 June 2001.

This application is a continuation of parent application Serial No. 09/645,662 filed 24 August 2000. Applicant submitted a complete version of the specification and drawings on 15 June 2001 constituting the instant continuation application. The PTO return acknowledgment post card has acknowledged receipt of nine (9) sheets of drawings. The nine (9) sheets of drawings contain all of the figures, including Figure 8. A copy of the return acknowledgment post card is attached.

Also attached is a copy of Figure 8 of the drawings.

As required by the Notice to File Missing Parts, submitted herewith is a check in the amount of \$550.00. This amount includes:

- (1) Petition Fee: \$130.00
- (2) Filing Fee: \$355.00; and
- (3) Surcharge \$65.00

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C., 20231, on 6 September

By

Dated


Judith Buebel 2001  
September 6, 2001

Serial No. 09/883,089

A duly executed oath/Power of Attorney and Assignment document will follow this response in due course along with any necessary extension fees.

Any fee deficit or overpayment in connection with this matter may be charged/credited to account number 06-2360.

Respectfully submitted,

By   
Daniel D. Ryan, Reg. No. 29,243

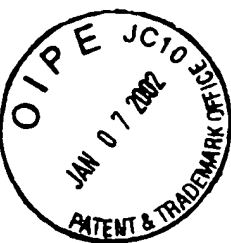
RYAN KROMHOLZ & MANION, S.C.  
P.O. Box 26618  
Milwaukee, Wisconsin 53226  
(262) 783 - 1300  
883089.pet

RYAN KROMHOLZ & MANION, S.C.

8768

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DATE	DESCRIPTION	INVOICE #	AMOUNT	DEDUCTION	NET AMOUNT
10/18/01	TIMI 3 9345.17121-CON 1		675.00		675.00



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\*\*\* SIX HUNDRED SEVENTY-FIVE & 00/100 DOLLARS

TO THE ORDER OF: Commissioner of Patents and Trademarks  
Washington DC 20231

*WJG*

⑈008768⑈ ⑆075000941⑆ 14 033 548⑈

**FILED IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

MAS Responsive to Notice to File Missing Parts Mailed 3 July 2001

Serial No.: 09/883,089

Title: Systems for Applying Ultrasound Energy to the Thoracic Cavity

Applicant Todd A. Thompson et al/TIMI 3 Systems, Inc.

Mailed: 18 October 2001

Docket #: 9345.17121-CON 1

Via First Class Mail No.

Enclosures: Completion of Filing Requirements; Copy of Notice to File Missing Parts; Statement by Attorney; Declaration/POA and added pages of POA for CON; Recordation/Assignment; Check 8768 (\$675.00) Return Postcard  
DDR/mas

COPY

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Todd A. Thompson et al.

Group: 3737

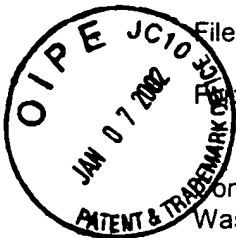
Serial No.: 09/883,089

Examiner: Unknown

Filed: 15 June 2001

Systems for Applying Ultrasound Energy to the Thoracic Cavity

Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
ATTENTION: Application Division



## COMPLETION OF FILING REQUIREMENTS

(check and complete this item, if applicable)

- I. ☒ This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed 6 July 2001.

NOTE: If these papers are filed before the office letter issues adequate identification of the original papers, should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

- ☒ A copy of the Notice to File Missing Parts of Application-Filing Date Granted (Form PTO-1533) is enclosed.

NOTE: The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

## DECLARATION OR OATH

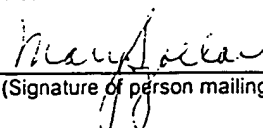
- II. ☒ No original declaration or oath was filed and enclosed is the original declaration or oath for this application.

## CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being transmitted therewith) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Mary Szollar

(Type or print name of person mailing paper)

Date: 18 October 2001  
(Signature of person mailing paper)

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PTO-3700-MAIL

OR

- ☐ The original declaration or oath which was filed was determined to be defective. A new original oath or declaration is attached.

**NOTE:** 37 CFR 1.41(a) points out that "Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial."

**NOTE:** For surcharge fee for filing declaration after filing date complete item VI(3) below.

**NOTE:** Acceptable minimums in the declaration for identification of the specification to which it applies are the name of the inventor AND (1) SERIAL NUMBER (2) ATTORNEY DOCKET NUMBER WHICH WAS ON THE APPLICATION AS FILED AND THE FILING DATE (3) TITLE OF THE INVENTION AND FILING DATE (4) TITLE OF INVENTION AND REFERENCE TO A SPECIFICATION WHICH IS ATTACHED TO THE DECLARATION AT THE TIME OF EXECUTION AND FILED WITH THE DECLARATION OR (5) TITLE OF INVENTION AND A STATEMENT BY A REGISTERED ATTORNEY THAT THE APPLICATION FILED IN THE PTO IS THE APPLICATION WHICH THE INVENTOR EXECUTED BY SIGNING THE DECLARATION. IF IDENTIFICATION (4) IS USED IT MUST BE ACCOMPANIED BY A STATEMENT THAT THE "ATTACHED" SPECIFICATION IS A COPY OF THE SPECIFICATION AND ANY AMENDMENTS THERETO WHICH WERE FILED IN THE PTO TO OBTAIN THE FILING DATE; SUCH A STATEMENT MUST BE A VERIFIED STATEMENT IF MADE BY A PERSON NOT REGISTERED TO PRACTICE BEFORE THE PTO. NOTICE OF SEPTEMBER 12, 1983 (1035 O.G. 3).

**NOTE:** Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 CFR 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☒ Statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.

#### AMENDMENT CANCELLING CLAIMS

- III. ☐ Cancel claims \_ inclusive.

#### TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

IV.

- ☐ Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

**NOTE:** For fee processing a non-English application complete item VI(5) below.

**NOTE:** A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 CFR 1.69(b).

**NOTE:** The translation for a regular application filed in a foreign language must be verified. 37 CFR 1.52(d).

## SMALL ENTITY STATUS

V.

☒ The applicant is a small entity and is entitled to Small Entity Status.

VI.

## COMPLETION FEES

**WARNING:** Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 CFR 1.53(d).

**NOTE:** The filing fees, fees for claims and surcharge fees listed below in items 1, 2 and 3 are reduced by 50% where proof of a small entity status is established on or before the date the fee is paid. If the full fee was paid but a verified statement is filed within 2 months of the date of timely payment of a fee then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

1. Filing fee

☐ original patent application (37 CFR 1.16(a))  
\$740.00; Small entity-\$370.00 \$ 370.00

☐ design application (37 CFR 1.16(f))  
\$330.00; small entity-\$165.00 \$ \_\_\_\_\_

2. fees for claims

☐ each independent claim in excess of 3  
(37 CFR 1.16(b))-\$84.00; small entity-\$42.00 \$ \_\_\_\_\_

☐ each claim in excess of 20  
(37 CFR 1.16(c))-\$18.00; small entity-\$9.00 \$ \_\_\_\_\_

☐ multiple dependent claim(s)  
(37 CFR 1.16(d))-\$280.00; small entity-\$140.00 \$ \_\_\_\_\_

3. surcharge fees

☒ late payment of filing fee

and/or

☒ late filing of original declaration or oath  
(37 CFR 1.16(e))-\$130.00; small entity-\$65.00; \$ 65.00

**NOTE:** Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers the surcharge fee is required.

**NOTE:** If both the filing fee and declaration or oath were missing from the original papers only one surcharge fee for both need be paid. 37 CFR 1.16(e).

4. ☐ petition and fee for filing by other than all the inventors  
or a person not the inventor  
(37 CFR 1.17(h) and 1.47-\$130.00) \$ \_\_\_\_\_

5. ☐ fee for processing an application filed with a specification  
in a non-English language  
(37 CFR 1.17(k) and 1.52(d))-\$130.00 \$ \_\_\_\_\_

6. ☐ fee for processing and retention of application  
(37 CFR 1.21(l) and 1.53(d)) - \$300.00 \$ \_\_\_\_\_

NOTE: 37 CFR 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 CFR 1.53(d) and this, as well as, the changes to 37 CFR 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of \$ 1.21(1) within 1 year of notification under \$1.53(d) must be paid.

Total completion fees \$ 435.00

VII. **EXTENSION OF TIME**

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

- (a) ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 CFR 1.17(a)-(d), for the total number of months checked below:

Extension (months)	Fee for other than <u>Small Entity</u>	Fee for <u>Small Entity</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input checked="" type="checkbox"/> two months	\$ 400.00	\$200.00
<input type="checkbox"/> three months	\$ 920.00	\$460.00
<input type="checkbox"/> four months	\$1440.00	\$720.00
<input type="checkbox"/> five months	\$1960.00	\$985.00

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 200.00

or

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

VIII. **TOTAL FEE DUE**

The total fee due is

Completion fee(s) \$ 435.00

Extension fee (if any) \$ 200.00

TOTAL FEE DUE \$ 635.00

IX.

## PAYMENT OF FEES

- ☒ enclosed is a check in the amount of \$ 675.00 (includes assignment recordal)
- ☐ charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 CFR 1.22(b).

X.

## AUTHORIZATION TO CHARGE ADDITIONAL FEES

WARNING: ACCURATELY COUNT CLAIMS, ESPECIALLY MULTIPLE DEPENDANT CLAIMS, TO AVOID UNEXPECTED HIGH CHARGES IF EXTRA CLAIMS ARE AUTHORIZED.

- ☒ The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the pendency of this application to Account No. 06-2360.
- ☒ 37 CFR 1.16 (a), (f) or (g) (filing fees)
- ☒ 37 CFR 1.16 (b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 CFR 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 CFR 1.17 (application processing fees)

WARNING: WHILE 37 CFR 1.17(A), (B), (C) AND (D) DEAL WITH EXTENSIONS OF TIME UNDER S 1.136(A) THIS AUTHORIZATION SHOULD BE MADE ONLY WITH THE KNOWLEDGE THAT: "SUBMISSION OF THE APPROPRIATE EXTENSION FEE UNDER 37 CFR 1.136(A) IS TO NO AVAIL UNLESS A REQUEST OR PETITION FOR EXTENSION IS FILED." (EMPHASIS ADDED). NOTICE OF NOVEMBER 5, 1985 (1060 O.G. 27).

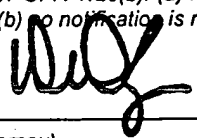
- ☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b))

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 CFR 1.311(b).

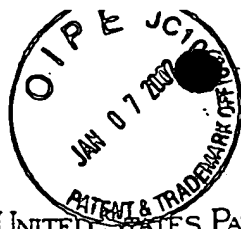
NOTE: 37 CFR 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application ... prior to paying, or at the time of paying ... issue fee". From the wording of 37 CFR 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

Reg. No. 29,243

Telephone No.: (262) 783 - 1300

  
(Signature of Attorney)

Daniel D. Ryan  
(Type or Print Name of Attorney)  
RYAN KROMHOLZ & MANION, S.C.  
P.O. Box 26618  
Milwaukee, Wisconsin 53226

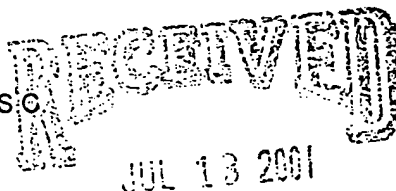


UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231  
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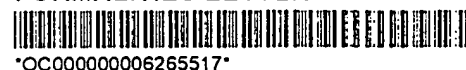
APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/883,089	06/15/2001	Todd A. Thompson	9345.17121-CON 1

RYAN KROMHOLZ & MANION, S.C.  
Post Office Box 26618  
Milwaukee, WI 53226-0618



CONFIRMATION NO. 1589

FORMALITIES LETTER



Date Mailed: 07/06/2001

RYAN KROMHOLZ &amp; MANION S.C.

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

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An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 355 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 420.

The following item(s) appear to have been omitted from the application:

DOCKETED

DUE:

9-6-01

CLERK:

[Signature]

- ☒ Figure(s) 8 described in the specification. *Copy added*

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date must be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the

date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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*A copy of this notice MUST be returned with the reply.*



---

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY